

Remarks

Applicant and the undersigned would like to thank the Examiner for his efforts in the examination of this application. Reconsideration is respectfully requested.

I. Rejection of Claims 4, 5, and 8-10 under 35 USC 102(b)

The Examiner has rejected Claims 4, 5, and 8-10 under 35 USC 102(b) as being anticipated by Bille et al. (U.S. Pat. No. 4,907,586).

This rejection is respectfully traversed. Bille teaches a short-duration pulse in a range of 1-40 picoseconds, which is taught to "have a minimal effect on peripheral tissue". [col. 5, lines 41-42]. Bille also teaches that "an apparently random firing order is established in order to insure the peripheral affects [sic] of the laser beam on tissue area 18 are, in fact, minimized." [col. 5, lines 42-44]

Therefore, Bille actually teaches away from the methods of Claims 4, 5, and 8-10, wherein the center point of each laser shot is recited as being spaced apart in time or distance from the center point of a previous laser shot so that any plume of ablated material caused by the previous laser shot will not substantially interfere with any subsequent laser shot's ablation of the corneal surface.

Thus Claims 4, 5, and 8-10 are believed to patentably define over the cited art.

II. Rejection of Claims 1-3, 6, and 7 under 35 USC 103(a)

The Examiner has rejected Claims 1-3, 6, and 7 under 35 USC 103(a) as being obvious over Bille '586 in combination with Warner et al. (U.S. Pat. No. 4,903,695).

This rejection is respectfully traversed. As stated above, it is believed that the recitations of Claims 1-3, 6, and 7 regarding shot placement and spacing patentably distinguish over Bille. Therefore, the making of a surface flap of Warner in combination with Bille are not believed to teach the invention as recited in Claims 1-3, 6, and 7, including the recited shot spacing being selected to prevent a plume of ablated material from substantially interfering with the next shot's ablation.

Therefore, it is believed that Claims 1-3, 6, and 7 patentably define over the cited art.

III. Rejection of Claims 1-10 under Double Patenting

The Examiner has rejected Claims 1-10 under the judicially created doctrine of obviousness-type double patenting over several patents and applications co-owned with the instant application.

A Terminal Disclaimer has been submitted in order to overcome this rejection.

IV. IDS

The Examiner has indicated that references did not accompany the IDS submission of October 3, 2001, received at the PTO on October 9, 2001. However, as discussed in a telephone conference with the Examiner, these references were indeed sent with the IDS form, and were apparently received by the Patent Office, as indicated by the enclosed copy of a returned post card.

Applicants are re-supplying the BG reference from the IDS of May 1, 2001. The additional references are being resubmitted under separate cover. The Examiner is also asked to note that the identical IDS was submitted, along with copies of the references, in co-pending application 09/745,193, which is also being considered by the present Examiner.

Conclusions

Applicant respectfully submits that the above amendments place this application in a condition for allowance, and passage to issue is respectfully solicited. The Applicant and the undersigned would like to again thank the Examiner for his efforts in the examination of this application and for reconsideration of the claims as amended in light of the arguments presented. If the further prosecution of the application can be facilitated through telephone interview between the Examiner and the undersigned, the Examiner is requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,



Jacqueline E. Hartt, Ph.D.

Reg. No. 37,845

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST, P.A.

255 South Orange Avenue, Suite 1401

P.O. Box 3791

Orlando, Florida 32802

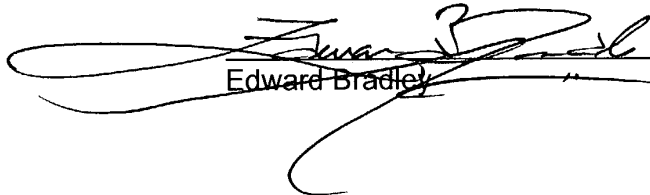
(407) 841-2330

Agent for Applicant



CERTIFICATE OF MAILING

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner of Patents, Washington D.C. 20231, this 12th day of September, 2002.


Edward Bradley

RECEIVED

SEP 23 2002

TECHNOLOGY CENTER R3700